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MEAGAN BAKER

7 **IN THE UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
9 **SAN DIEGO DIVISION**

10 MEAGAN BAKER,) **Case No.: '14CV2307 LAB NLS**
11)
12 Plaintiff,) **COMPLAINT AND DEMAND FOR**
13) **JURY TRIAL**
14)
15 v.) **(Unlawful Debt Collection Practices)**
16 CREDIT ONE BANK, N.A.,)
17)
18 Defendant.)
19)
20)
21)
22)
23)
24)
25)

17 MEAGAN BAKER (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the
18 following against CREDIT ONE BANK, N.A. (Defendant):

19 **INTRODUCTION**

20 1. Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28
21 U.S.C. § 227 *et seq.* (TCPA).
22 2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection
23 Practices Act, Cal. Civ. Code § 1788 *et seq.* (RFDCPA).
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JURISDICTION AND VENUE

- 1 3. Jurisdiction of this Court over Counts I of Plaintiff's Complaint arises pursuant to 28
- 2 U.S.C. § 1331, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the
- 3 state claims contained herein.
- 4 4. Defendant conducts business in the State of California thereby establishing personal
- 5 jurisdiction.
- 6 5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

- 7 6. Plaintiff is a natural person residing in Escondido, San Diego County, California.
- 8 7. Defendant is a business entity with a principal place of business in Las Vegas, Nevada.
- 9 8. Defendant acted through its agents, employees, officers, members, directors, heirs,
- 10 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
- 11 insurers.
- 12

FACTUAL ALLEGATIONS

- 13 9. In or around 2014, Defendant began constantly and continuously places collection calls
- 14 to Plaintiff seeking and demanding payment for an alleged debt.
- 15 10. Plaintiff's alleged debt arose through a consumer credit transaction.
- 16 11. Defendant places collection calls from telephone numbers, including, but not limited to,
- 17 760-263-3533 and 760-712-4298.
- 18 12. Defendant places collection calls to Plaintiff's cellular telephone at phone number 760-
- 19 522-19XX.
- 20 13. Per its prior business practices, each of Defendant's calls were placed using an automatic
- 21 telephone dialing system.
- 22 14. On or around August 4, 2014, Plaintiff spoke with Defendant's representative, "Amy."
- 23 15. In the course of the phone call on or around August 4, 2014, Plaintiff requested that
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- 25

1 Defendant cease placing collection calls to her cellular phone.

2 16. Plaintiff revoked any consent, express or implied, to receive calls from Defendant in the
3 course of the call in or around August 4, 2014.

4 17. Despite Plaintiff's request to cease, Defendant continued to place multiple daily
5 collection calls to Plaintiff, including but not limited to the following:

- 6 • August 9, 2014: two (2) calls;
- 7 • August 10, 2014: three (3) calls;
- 8 • August 11, 2014: two (2) calls;
- 9 • August 12, 2014: one (1) call;
- 10 • August 26, 2014: three (3) calls;
- 11 • August 28, 2014: three (3) calls;
- 12 • August 29, 2014: two (2) calls;
- 13 • August 30, 2014: one (1) call;
- 14 • August 31, 2014: one (1) call;
- 15 • September 9, 2014: one (1) call;

16 18. Despite Plaintiff's request to cease calling, Defendant placed a collection call to
17 Plaintiff's work telephone at 760-741-98XX on September 10, 2014.

18 **COUNT I**

19 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

20 19. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
21 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every
22 violation pursuant to 47 U.S.C. § 227(b)(3)(B).

23 20. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
24 willful violations of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
25 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47

1 U.S.C. § 227(b)(3)(C).

2 Wherefore, Plaintiff, MEAGAN BAKER, respectfully requests judgment be entered
3 against Defendant, CREDIT ONE BANK, N.A. for the following:

4 21. Statutory damages of \$500.00 for each and every negligent violation of the TCPA
5 pursuant to 47 U.S.C. § (b)(3)(B);
6 22. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of
7 the TCPA pursuant to 47 U.S.C. § (b)(3)(B) and 47 U.S.C. § (b)(3)(C);
8 23. All court costs, witness fees and other fees incurred; and
9 24. Any other relief that this Honorable Court deems appropriate.

10 **COUNT II**

11 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION
12 PRACTICES ACT**

13 25. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as
14 the allegations in Count II of Plaintiff's Complaint.
15 26. Defendant violated the RFDCPA based on the following:
16 a. Defendant violated § 1788.11(d) of the RFDCPA by causing a telephone to ring
17 repeatedly or continuously to annoy the person called;
18 b. Defendant violated § 1788.11(e) of the RFDCPA by communicating with
19 Plaintiff with such frequency as to be unreasonable and to constitute a
20 harassment to Plaintiff.
21 c. Defendant violated § 1788.17 of the RFDCPA by failing to comply with the Fair
22 Debt Collection Practices, Act, 15 U.S.C. § 1692 *et seq.*, to wit:
23 1. Defendant violated §1692d of the FDCPA by engaging in conduct the
24 natural consequence of which is to harass, oppress, or abuse Plaintiff;
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1 WHEREFORE, Plaintiff, MEAGAN BAKER, respectfully requests judgment be entered
2 against Defendant, CREDIT ONE BANK, N.A. for the following:

3 27. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt Collection
4 Practices Act, Cal. Civ. Code §1788.30(b),
5 28. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
6 Practices Act, Cal. Civ Code § 1788.30(c), and
7 29. Any other relief that this Honorable Court deems appropriate.

8
9 RESPECTFULLY SUBMITTED,

10 DATED: September 30, 2014

11
12 KROHN & MOSS, LTD.

13
14 By: /s/ Ryan Lee
15 Ryan Lee
16 Attorney for Plaintiff

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18 **DEMAND FOR JURY TRIAL**

19 PLEASE TAKE NOTICE that Plaintiff, MEAGAN BAKER, demands a jury trial in this
20 case.
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